

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

TIMOTHY P. THOMASON)

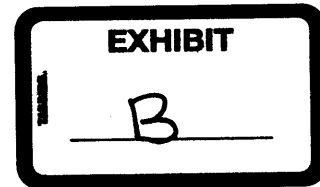
Plaintiff,)

) CASE NO. CV-05-131

vs.)

GMAC MORTGAGE)
CORPORATION,)

Defendant.)



PLAINTIFF'S MOTION TO AMEND COMPLAINT

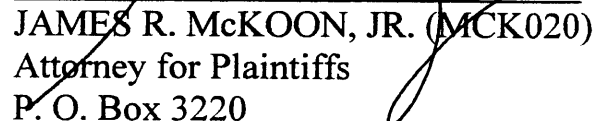
Comes now the Plaintiff in the above styled cause pursuant to Rule 15, ARCP, and requests the Court allow Plaintiff to amend his Complaint. As grounds for allowance of said amendment, the Plaintiff says as follows:

1. This case is set for trial on December 12th, 2005.
2. The amendment to Plaintiff's Complaint states an additional cause of action, but does not require any additional or different discovery.
3. The amendment to Plaintiff's Complaint does not require any additional or difference evidence than would be developed or presented in support of Plaintiff's initial Complaint.
4. Plaintiff has yet to take the deposition of any defense witness and as such, any such witness would be on notice of the Amended Complaint prior to said depositions.

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JIMMIE L. DUST, CLERK
RUSSELL COUNTY, ALA

5. No prejudice will result to either side in the allowance of the Amended Complaint and the amending of the Complaint should cause no delay in the trial of this cause.

WHEREFORE, the above premises considered, the Plaintiff requests that the Amended Complaint, filed with the Court and attached hereto as Exhibit "A", for good cause shown be allowed in accordance with Rule 15, ARCP.



JAMES R. McKOON, JR. (MCK020)
Attorney for Plaintiffs
P. O. Box 3220
Phenix City, Alabama 36868-3220
(334) 297-2300

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on the following by directing same of their office addresses through first-class, United States mail, postage prepaid, on this the 27th day of October, 2005.

Reid S. Manley, Esq.
Robert R. Maddox, Esq.
Burr & Forman
420 North Twentieth Street
Suite 3100
Birmingham, Alabama 35203-5206



OF COUNSEL

EXHIBIT

"A"

IN THE CIRCUIT COURT OF RUSSELL COUNTY, ALABAMA

TIMOTHY P. THOMASON

Plaintiff,

VS.

GMAC MORTGAGE
CORPORATION,

Defendant.

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CASE NO. CV-05-131

PLAINTIFF'S AMENDED COMPLAINT

Comes now the Plaintiff in the above styled cause and amends his Complaint as follows:

COUNT IV


18. Plaintiff realleges paragraphs 1 through 17 of Plaintiff's Complaint as if fully set out herein.

19. Upon being informed by Plaintiff that Defendant had failed to properly apply his February of 2004 mortgage payment, the Defendant continued to telephone the Plaintiff repeatedly in a systematic campaign of harassment stating that Defendant had not made his mortgage payment while knowing or having information from which the Defendant could easily confirm and verify that in fact Plaintiff's mortgage payment had been made.

20. The conduct of the Defendant described hereinabove constitutes a wrongful intrusion and an invasion of Plaintiff's privacy.

21. As a proximate consequence of the aforescribed conduct of the Defendant, Plaintiff has suffered emotional distress, mental anguish, embarrassment and his credit was damaged.

WHEREFORE, the above premises considered, the Plaintiff demands judgment against the Defendant in an amount not to exceed \$75,000.00 in the aggregate as to all counts of Plaintiff's Complaint, plus all costs of this action.



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Attorney for Plaintiffs
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